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No. 90-1856

Supreme Court, U.S.
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SUPREME COURT OF THE UNITED STATES

October Term, 1990

JUDICIAL RETIREMENT & REMOVAL COMMISSION OF KENTUCKY - - - Petitioner

versus

DAN JACK COMBS, JUSTICE OF THE SUPREME COURT OF KENTUCKY - Respondent

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ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF KENTUCKY

SUPPLEMENTAL BRIEF FOR PETITIONER

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JUDICIAL RETIREMENT & REMOVAL COMMISSION OF KENTUCKY - - - - *Petitioner*

v.

DAN JACK COMBS, JUSTICE OF THE SUPREME COURT OF KENTUCKY - - - *Respondent*

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SUPPLEMENTAL BRIEF FOR PETITIONER

This supplemental brief is filed pursuant to Rule 15.7 of the rules of this Court to call the attention of the Court to a new case not available at the time of petitioner's last filing.

On September 9, 1991, the United States Court of Appeals for the Third Circuit decided the case of *Stretton* v. *Disciplinary Board of the Supreme Court of Pennsylvania*, Nos. 91-1398 & 91-1439 (3rd Cir. September 9, 1991). In that case, the court rejected a First Amendment attack on Canon 7(B)(1)(c) of Pennsylvania's Code of Judicial Conduct which read identically in pertinent part to Kentucky's Canon 7 (B)(1)(c) involved in this case. *Stretton,* slip opinion, pp. 9, 15-17. The court found the opinion of the Supreme Court of Kentucky in this case unpersuasive. *Id.*, p. 15. The Third Circuit's *Stretton* decision reversed the

district court's denial of enforcement of Pennsylvania's Canon reported in *Stretton* v. *Disciplinary Board of the Supreme Court of Pennsylvania,* 763 F.Supp. 128 (E.D. Pa. 1991), which was cited on p. 11 of the respondent's Memorandum in Opposition with appropriate notation that the appeal was pending. The Third Circuit's opinion in *Stretton* is cited as a case of a United States court of appeals which conflicts with Kentucky's decision under review.

Respectfully submitted,

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